Joseph W. Price, et ux

* BEFORE THE * DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY 7th Councilmanic District

* Case No. 92-46-A

Petitioners * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit existing accessory structures (carport and garage) to occupy more than 40% of the rear yard and to be located in the third of the yard closest to a side street property line, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Joseph W. Price, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 34 Yorkway, consists of 3,400 sq.ft. zoned D.R. 5.5 and is improved with a single family end-of-group townhouse dwelling and garage. Said property is located at the corner of Yorkway and Broadship Roads. Petitioners filed the instant Petition in an effort to legalize an existing 14' x 22' carport which was constructed without benefit of a building permit in the northeast corner of the rear yard as depicted on Petitioner's Exhibit 1. Petitioner testified that he relied on his contractor to obtain the necessary permits but that he failed to do so. Testimony further indicated that the relief requested is necessary for the 8' x 16' garage which has existed in the northwest corner of the rear yard since 1939. Petitioner testified the size of the subject carport was necessary in order to accommodate the family car. In support of their request, Petitioners submitted two letters of approval, marked Petitioner's Exhibits 3 and 4, which had been signed by various residents of the neighborhood, including their immediate neighbors. Testimony and evidence presented indicated the relief requested will not result in any detriment to the health, safety or general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render contormance unnecessarily burdensome;

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

- 2-

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this Aday of October, 1991 that the Petition for Zoning Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit existing accessory structures (carport and garage) to occupy more than 40% of the rear yard and to be located in the third of the yard closest to a side street property line, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted shall be rescinded and Petitioners would be required to file a new Petition.

> 2) Petitioners shall not allow or cause either the garage or carport to be converted to a second dwelling unit and/or apartments. Neither structure shall be permitted to contain any living or sleeping quarters, and no kitchen or bathroom facilities.

> > The sixual TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

EIVED FOR

TMK:bjs

following restriction:

Petition for Variance

to the Zoning Commissioner of Baltimore County The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a 400.1 to allow accessory structures to occupy more than

40% of the allowed rear yard and to be located in the third of the property to closest side street property line.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) PRACTICAL DIFFICULTY.....

Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose and render conformance unnecessarily burdensome.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County,

I/We do solemnly declare and affirm, under the penalties of perjuty, that I/we are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser/Lessee: Joseph W. Price (Type or Print Name) Mary K. Price Address Mary X. Pruce City and State Attorney for Petitioner: 282 <u>0230</u> 34 Yorkway (Type or Print Name) Baltimore, Md. 21222 Name, address and phone number of legal owner, contract purchaser or representative to be contacted Same as above 282 0230 34 Yorkway Attorney's Telephone No.: _____ ORDER RECEIVED FOR FILING ESTIMATED LENGTH OF HEARING (-1/2HR) AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO HONTHS

Beginning at a point on the North side of Yorkway which is 22 feet wide at the distance of 19 feet east of the centerline of the nearest improved intersecting street of Broadship Road which is 20 feet wide.

Being Lot 4., Block 013, Section A., in the subdivision of Dundalk as recorded in Baltimore County PLAT 002, BOOK 07, FOLIO # 185, containing 3400 Square feet. Also known as 34 Yorkway and located in the 12th Election District

TIEM # 43

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 97-46-50 HA

- 3-

District 1578	Date of Posting 6/19/92
Posted for: Special Heaving & Vari	[nc]
Petitioner: WILLIAMS Mar. Servico, I.	7/ C.
Posted for: Special Hearing & Veril Petitioner: Williams Mer. Service, F. Location of property: NWIS Fortor Har.	1600' NEf Comil Foland Rd
at The and of Lorrell Island R	Aro, opprox, 30 Fr. roodway,
at The and of Lorroll Island R	1, or fro party of Williams Estate
Remarks:	4 7

CERTIFICATE OF POSTING

District 12 14 Posted for: A 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	Date of Pesting 7/25/1/
Potitioner: Joseph M. S. J. M. C. J. L. L. C. L. C. L. L. C. L. L. L. C. L.	() () () () () () () () () ()
Location of Signs: 100 100 100 100 100 100 100 100 100 10	/
Remarks:	
Posted by Signature	Date of return: 1/1/9/

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

October 15, 1991

Mr. & Mrs. Joseph W. Price 34 Yorkway Baltimore, Maryland 21222

RE: PETITION FOR ZONING VARIANCE N/S Yorkway, 19' E of Broadship Road (34 Yorkway) 12th Election District - 7th Councilmanic District Joseph W. Price, et ux - Petitioners Case No. 92-46-A

Dear Mr. & Mrs. Price:

TMK:bjs

File

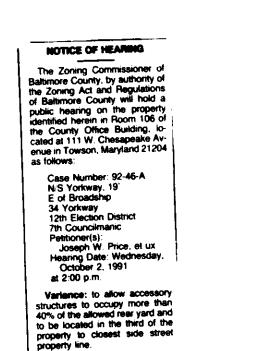
Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> Very truly yours, Muly Kotron TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

cc: People's Counsel

CERTIFICATE OF PUBLICATION



TOWSON, MD., ______, 19_____ THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on ______, 19 ____.

THE JEFFERSONIAN,

298 - \$ 35.18

Account: R-001-6150

04 AD 4 # 0053 HICHRC Please Make Checks Payable Te: Baltimore @Ain@010:02AH07-26-91

\$35.00



Account: R-001-6150

7/26/91

PUBLIC HEARING FEES 010 -ZONING VARIANCE (IRL)

LAST NAME OF OWNER: PRICE

H9200043

Please Make Checks Payable To: Baltimore County

ler Valldation

111 West Chesapeake Avenue

Towson, MD 21204

Baltimore County
Zoning Commissioner
Commonwell County Office Building 11 West Chesaprake Avenue mson. Maryland 21204

DATE: 10 1 91

411 West Chesapeake Avenue

Towson, MD 2120+

34 Yorkway Baltimore, Maryland 21222

lase Number: 92-46-A N/S Yorkway, 19t E of Broadship 12th Election District - 7th Councilmanic Petitioner(s): Joseph W. Price, et ux HEARING: WEDNESDAY, OCTOBER 2, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$ 90.18 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER

BALTIMORE COUNTY, MARYLAND

Please Make Checks Payable To: Baltimore County

887-3353

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

September 24, 1991

Mr. & Mrs. Joseph W. Price 34 Yorkway Road Baltimore, MD 21222

> RE: Item No. 43, Case No. 92-46-A Petitioner: Joseph W. Price Petition for Variance

Dear Mr. & Mrs. Price:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Chairman Zoning Plans Advisory Committee

Enclosures

Baltimore County Government Office of Zoning Administration

and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue

Towson, MD 21204

88- 4453

XX 3353

Your petition has been received and accepted for filing this 26th day of July, 1991.

Petitioner: Joseph W. Price, et ux Petitioner's Attorney:

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

ELL West Chesapeake Avenue Towson, MD (2)20)

AUGUST 13, 1991

887 3353

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

NOTICE OF HEARING

Case Number: 92-46-A N/S Yorkway, 19' E of Broadship 34 Yorkway 12th Election District - 7th Councilmanic Petitioner(s): Joseph W. Price, et ux HEARING: WEDNESDAY, OCTOBER 2, 1991 at 2:00 p.m.

Variance to allow accessory structures to occupy more than 40% of the allowed rear yard and to be located in the third of the property to closest side street property line.

BALTIMORE COUNTY, MARYLAND

DATE: August 20, 1991

INTER-OFFICE CORRESPONDENCE

In reference to the petitioner's request, staff offers the

A site inspection revealed that the subject carport already

Had the requested variance preceded the construction of the accessory

Based upon an analysis of the information provided, staff is

If there should be any further questions or if this office can

provide additional information, please contact Jeffrey Long in the

exists; therefore, substantive comments are difficult to provide.

structure, staff concerns would have included potential problems

relative to limited site distance, design, and the perceived

Arnold Jablon, Director

Development Management

unable to support the applicant's request.

SUBJECT: Joseph W. Price, Item No. 43

following comments:

practical difficulty.

PK/JL/rdn

ITEM43/ZAC1

Office of Planning at 887-3211.

Zoning Administration and

Pat Keller, Deputy Director Office of Planning and Zoning

J. Robert Juines

Baltimore County

Zoning Commissioner of

111 West Chesapeake Avenue

Towson, MD 2120)

NOTICE OF REASSIGNMENT

Baltimore County Government

Office of Zoning Administration

and Development Management

Office of Planning & Zoning

CASE NUMBER(s): PROPERTY OWNER(s)

LOCATION:

92-46-A Joseph W. Price N/S Yorkway, 19' E. of Broadship 34 Yorkway

THE ABOVE MATTER HAS BEEN REASSIGNED. HEARING WILL NOW TAKE PLACE AS

TUESDAY, OCTOBER 8, 1991 at 2:00 P.M.

IN THE BALTIMORE COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, ROOM 118, TOWSON, MARYLAND 21204.

ZONING COMMISSIONER BALTIMORE COUNTY

cc: Joseph W. Price

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: September 11, 1991

Mr. Arnold Jablon, Director

Office of Zoning Administration and Development Management

Rahee J. Famili SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: August 6, 1991

This office has no comments for item numbers 25, 28, 32, 33, 34, 35, 39, 40, 42, 43 and 44.

RJF/lvd

Baltimore County Government Fire Department

700 East Joppa Road, Suite 901 Towson, MD 2120+5500

AUGUST 6, 1991

(301) 887 (500

J. Robert Haines 7oning Commissioner Office of Planning and Zoring Baltimore County Office Building Towson, MD 21204

PF: Property Owner: JOSEPH W. PRICE

#39 YORKWAY Location:

Zoning Agenda: AUGUST 6, 1991 Item No.:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

JK/KEK

BALTINORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 20, 1981 Zoning Administration and Development Management FROM: Robert W. Bowling, F.E.

Zoning Advisory Committee Meeting for August 6, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 25, 28, 32, 33, 34, 36, 39, 40, 42, 43 and 44.

For Item 483 (Case No. 91 494 A), the previous minor subdivision comments are applicable.

For Items 35 and 37, revised County Review Group Plans are required.

> Robert W. Bowling / DAK ROBERT W. BOWLING, T.E., Chief Developers Engineering Division

RWB:s

• ITEM #43

July 26,1991

Stanley J. Shapiro Deputy County Attorney
Law Office

On 7-26-91 the undersigned filed for a zoning variance in order to erect a car port.

Due to the fact that I am an County employee I have been instructed to notify you of the above filing by Mr. Green of the Zoning Board.



Joseph W. Price 34 Yorkway Baltimore, Md. 21222

OFFICE OF LAW

ITEM #43 •

400 Washington Avenue Towson, MD 21204

887-4420 Fax 296-0931

Mr. Joseph W. Price 34 Yorkway Baltimore, Maryland 21222

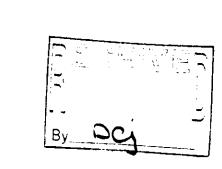
Dear Mr. Price:

I am in receipt of your letter dated July 26, 1991, advising of your application for a variance. As you are in Councilman Mason's District, I have taken the liberty of referring your letter to him with the enclosed Council resolution and asking him to introduce the Resolution before Council.

Very truly yours,

Stanley J. Schapiro Deputy County Attorney

SJS:ss Enclosure CC: Zoning Administration



County Council of Baltimore County Court House. Towson, Maryland 21204 (301) 887-3196 Fax (301) 887-5791

Berchie L. Manley FIRST DISTRICT

Melvin G. Mintz SECOND DISTRICT Charles A. Ruppersberger, III

Douglas B Riley FOURTH DISTRICT Vince Gardina

FIFTH DISTRICT William A. Howard, IV SIXTH DISTRICT

Dear Mr. Haines:

Donald C. Mason

Thomas Toporovich Thomas J. Peddicord, Jr. LEGISLATIVE COUNSEL

September 3, 1991

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Attached please find a copy of Resolution 57-91 concerning the public disclosure of Joseph W. Price an employee of the Baltimore County Police Department. Mr. Price has filed for a zoning variance for a car port for his home in Dundalk in the Seventh Councilmanic District of Baltimore County.

This Resolution was unanimously approved by the County Council at their meeting on Tuesday, September 3, 1991 and is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr. Legislative Counsel/Secretary

TJP:dp Enclosure R5791/DAPTJP cc: Mr. Joseph Price

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND Legislative Session 1991, Legislative Day No. 16 Resolution No. 57-91

Mr. Donald C. Mason, Councilman

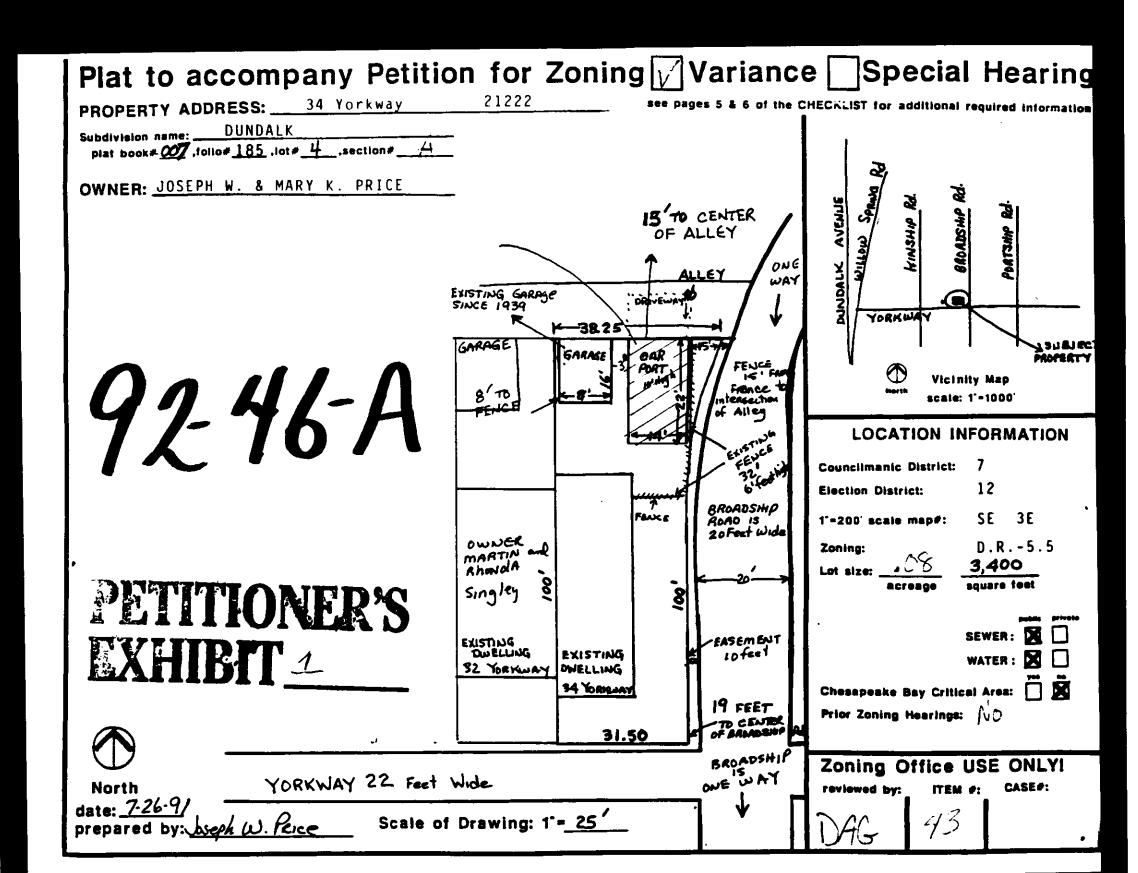
By the County Council, September 3, 1991

A RESOLUTION concerning the public disclosure of Joseph W. Price an employee of the Baltimore County Police Department.

WHEREAS, Joseph W. Price has filed for a zoning variance for a car port for his home in Dundalk in the Seventh Councilmanic District of Baltimore County; and

WHEREAS, this Resolution is intended to provide full public disclosure of his interest in the proceeding before the Zoning Commissioner under Section 26-3(d) of the Baltimore County Code.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the filing of a zoning variance by Joseph W. Price does not contravene the public welfare and is hereby authorized.





PETITIONER'S EXHIBIT# 2



LICKING AT REAR CF 34 YORKWAY



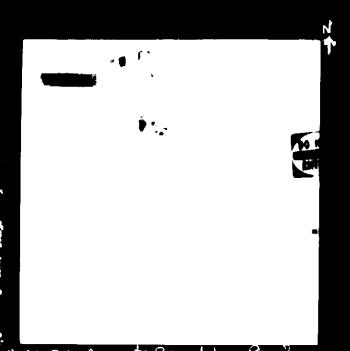
LOOKING WAST down Alley IN REAR of 34 YORKWAY FROM ACRESS BReadship Road



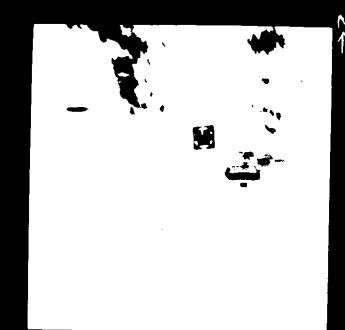
LOOKING S. W FROM ACROSS EROADSHIP ROAD AT PIFOR of 34 YORKWAY

CASE NUMBER 92-46-A

PETITIONER'S EXHIBIT#



134 YORKWAY at Broadship Read 15: Not Enter Sign indicating one. Way street



Project of the Contract Project



AR, SIDE VIEW Hey

34 YORKWAY Hey

CKING BASTWARD

October 3, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204



Dear Mr. Haines:

We live directly across the street from 34 Yorkway. We do not find Mr. Joseph Price's car port an eyesore or offensive at all. The car port, we think, really adds a nice air to it. It gives a family atmosphere and a pavilion like setting. We think it really adds to the neighborhood, instead of taking away from it. We were allittle surprised to think the zoning board would find this offensive, when all we heard of this car port from the neighbors was very positive. We really feel if Mr. Joseph Frice has to tear this car port down, that this would be a crime. We would think since the neighborhood and neighbors aren't upset, why in God's name would the zoning board. I will give you an example of what happened to us without having a security fence. Three weeks ago, our back porch was broken into. Had we had what Mr. Price has, it would of never happened. We honestly feel that the zoning board should consider what we the neighbors want. After all, it is our neighborhood. We hope that as tax paying citizens that we be considered, and our feelings should mean something. There is nothing wrong with Mr. Joseph Price's car port. We pray you will take Mr. Price's and the neighborhood's feelings into consideration. This time, Mr. Haines, please make the right decision; thank you. We live in this neighborhood, not the zoning board.

Surley Warble 36 Yorkway Horothen Tooks 36 Thokway Bathravie Fild 2120



Octoler 6, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines:

We, the neighbors of the Price family, are asking you to consider the issuance of a variance for the Prices' car port. That structure and the other work they have done on their property has done nothing but enhance the appearance of our entire neighborhood.

Since it is our property, 60 Broadship Road, that the car port immediately faces, if anyone should have a complaint it should be us. On the contrary, the lighting the Prices installed with their car port, under Fire Department inspection, has made our street a much safer place to live, as well as much nicer.

Had the vandalism and theft not increased in our neighborhood over the last couple of years, they would not have felt the car port necessary. Now, you are not only proposing that they subject their property to further loss and destruction, you will be putting them through the added expense and headache of destroying property we have all come to enjoy.

Please heed the wishes of this neighborhood. Allow the car port to stand. Encourage us all to make improvements to our property, and thus enhance the neighborhood. Issue the variance for the Prices' car port.

Sincerely,

Arabica Sagistan

MCholiland miller

Mrx Estelotyny

John & Denise Szimanski
60 Broadship Road
Baltimore, MD 21222

Me Mir Wou J. Horig Operadely Ret. Balte Die 2122

Danuell Vale
Dundslind 2/222

